

REMARKS

Claims 1-39 are pending in the application. The status of the application is as follows:

Claims	35 U.S.C. Sec.	References / Notes
1-39	§103(a) Obviousness	<ul style="list-style-type: none">• Movalli, et al. (U.S. Publication No. 2005/0004876 A1); and• Walker, et al. (U.S. Patent Publication No. 2003/0149632).

5 Applicant has amended claims 1, 14, and 18, to include the limitation that the execution of the transaction is performed subsequent to the preceding steps.

Applicant's use of reference characters below is for illustrative purposes only and should not be construed as limiting the invention unless expressly indicated.

10 **35 U.S.C. §103(a), CLAIMS 1-39 OBVIOUSNESS OVER MOVALLI IN VIEW OF WALKER**

1. *Independent claims 1, 14, and 18 have been amended to indicate that the executing of the transaction is performed prior to subsequent steps. The combination of Movalli and Walker fails to teach or suggest the claimed invention.*

15 In the OA, on pp. 2–12, the Examiner rejected claims 1–39 as being obvious over the combination of Movalli and Walker.

2. *The Examiner has not established a prima facie case of obviousness for claims 1, 14, and 18 with regard to the combination of references. The combination of Movalli does not anticipate claims 1, 14, and 18 because it does not teach or suggest identifying the user based on the contents of the transaction code .*

With regard to independent claims 1 and 18, the Examiner stated, on pp. 2–3, that Movalli teaches each and every element of these claims, with the exception that Movalli fails to teach a transaction between a remotely located customer and a vendor. The Examiner then applied the Walker reference as 5 teaching such a transaction and asserted that it would have obvious to one of ordinary skill in the art to modify Movalli's disclosure to include Walker's transaction between a remotely located customer and a vendor because this would have enhanced the flexibility of the transaction system.

However, the Examiner has not established a prima facie case of 10 obviousness based on a combination of Movalli and Walker. With regard to the Movalli reference, the Examiner, under paragraph 5 of the OA, has simply listed the claim elements and then indicated that these are taught by Figs. 4 and 5 and paragraphs 0046–0051 of Movalli. No effort was made to indicate which elements that are disclosed by Movalli are being read on which claimed elements. The 15 Examiner indicated that the Applicant's arguments in the previously submitted amendment are rendered moot by the new rejection. Yet, the arguments made by the Applicant are not rendered moot, since essentially the same argument has been made by the Examiner with respect to the Movalli reference.

In the Response to Arguments section of the Office Action mailed June 12, 20 2006, the Examiner provided an indication as to how the elements of Movalli are being read on the presently claimed elements. This section is repeated below, and the Applicant presumes in the absence of any further discussion in the present office action, that this read on Movalli is still accurate. In the event that the Examiner's interpretation of Movalli has changed, the Applicant respectfully

requests that the Examiner identify, with specificity, which elements have changed and how the changed interpretation is being read on the claimed elements. The Examiner previously stated:

5 Applicant argue that the prior art (Movalli) fail to teach the disclosed invention, especially a system wherein a transaction code is receiving by a prior art. Movalli teaches among other thing in a credit card transactions, the transaction data 210 and the human identifier 220 would be captured at the POS as the cardholder, for example, signs the credit card receipt.

10 The unique code processor 230 and formatter 310 would then generate the single whole representation of secure endorsed transaction 320 that can be transmitted to the credit card processor where the data is stored for a predetermined period of time. In this case the POS in the code is capture/transmitted from consumer device the to POS system for processing. Moreover, there is an association between the credit card company and the vendor in order for any processing to take place.

15 Alternatively, the single whole representation of secure endorsed transaction 320 may be stored at the merchant's site, removing the dependency a merchant has on the transaction processor. Because the integrity of the single whole representation of the secure endorsed transaction 320 is critical to the operation of the system 100, mass storage devices that provide write-once read-many times capability are particularly appropriate for storing the single whole representation of the secure endorsed transaction 320 when the underlying transaction involves the use of a credit card.

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35 Applicant also argue that Movalli does not disclosed or suggest identifying and executing a transaction. Again, Examiner respectfully disagrees with applicant characterization of the prior art. Movalli teach among other things a formatter 610 to create a single whole representation of the secure endorsed transaction, the human identifier 220, transaction data 210, public key 510, and database, located, for example, on the hard disk 160. In this case, the verification process of FIG. 7 would also not involve the use of the formatter 610.

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Instead, the human identifier 220, transaction data 210, public key 510, and digital signature 550 are extracted from the database, processed by the unique code processor 230 to generate the new computed unique code 720, which would then be compared by the compare processor 420 with the unique code 710. If the compare processor 420 determines that the codes 710 and 720 match, then the forge-resistant, tamper-resistant secure endorsed transaction 620 (is original and) was not tampered with prior to verification.

At this time, the secure endorsed transaction 620 can be processed, for example, displayed, faxed, printed, etc. In the credit card example, the tamper-resistant secure endorsed transaction 620 could be printed as a signed credit card receipt for visual inspection and verification by humans.

b. Applicant argues that the prior art fail to teach a system of dialing a transaction code comprises a telephone dial sequence onto a telephone network.... The telephone code disclose in the Applicant invention is interpreted as a transaction code comprise of number like a telephone number. One of ordinary skill in the art would recognized that the transaction code transmitted by the POS to the processing system act like a telephone number dialed through the telephone modem that is taught in Movalli's disclosure.

In order for the transaction to be approved, the system has to recognized which merchant is it from in order to properly execute the transaction. Therefore, the system detects the POS identification information which is part of the transaction code transmitted.

Applicant respectfully contends that this interpretation is inconsistent with the claimed language.

Transmitting--With regard to the step of transmitting, the Examiner indicates that Movalli's secure endorsed transaction 320 (which is made up of the transaction data 210, a human identifier 220, and a unique code 240 (which is itself generated as a secure endorsement of the transaction in the transaction

data 210 by the individual identified in the human identifier 220)) can be transmitted to the credit card processor. However, the claimed language indicates that the transmitting is done by the customer to the electronic order processing system associated with the vendor—the credit card company cannot

5 be read on the “order processing system” associated with the vendor, since the credit card company does not “process orders”.

The Examiner states that “In this case the POS in the code is capture[d]/transmitted from [the] consumer device ...to [the] POS system for processing. Movalli does not disclose any form of a transfer from a consumer

10 device.

Receiving—With regard to the step of receiving, the Examiner has not illustrated how the transaction code that was transmitted is received. The Examiner does not identify a receiving entity in his analysis. Although presumably the credit card company would receive any transmission directed towards it, as

15 noted above, the credit card company system is not the electronic order processing system associated with the vendor, nor would one of ordinary skill in the art consider it to be so.

Identifying the user—With regard to the step of identifying, the Examiner stated, “Movalli teach among other things a formatter 610 to create a single

20 whole representation of the secure endorsed transaction, the human identifier 220, transaction data 210, public key 510, and database, located, for example on the hard disk 160. In this case, the verification process of FIG. 7 would also not involve the use of the formatter 610.” However, the Examiner has not indicated

how the user is being identified based upon the contents of the transaction code.

All the Examiner has done is pointed to a data element (the secure endorsed transaction 320, 620?) that happens to contain transaction data 210 and a human identifier 220, but does not show how the user is identified based upon the

5 contents of the transaction code, as claimed.

Identifying a commercial transaction—The Examiner has not indicated how Movalli discloses identifying a commercial transaction associated with the transaction code. The section cited by Movalli simply indicates that a data element exists (320, 620?) that contains, as a part of its aggregated whole, a

10 data element identified as “transaction data”—however there is not teaching or suggestion of any step of “identifying”, as required by the claims.

Executing—The Examiner has not indicated any portion of Movalli that relates to executing any form of transaction, particularly not one based on the identified commercial transaction. The Examiner has indicated how Movalli

15 teaches the aggregated secure endorsed transaction can be stored on a hard disk, and how a stored transaction can be checked to see if it has been tampered with. The Examiner also indicated how the secure endorsed transaction 620 can be processed, such as being displayed, faxed, printed, etc. However, none of these disclosures relates to the “executing” of the transaction by the vendor, or
20 would one of ordinary skill in the art construe it as such.

Movalli lacks the elements of the present invention because it deals with a different problem—the storing and verification of an already-executed transaction (or at least evidence of an already-executed transaction). In Movalli, the

information 210 related to an endorsed transaction (e.g., a credit card transaction receipt [0046]) is combined with a unique human identifier 220. A unique code 240 is generated from this, but the purpose of this code is not for execution of the transaction, as required by the claims, but rather for storage and

5 possible subsequent verification of integrity. But Movalli does not concern itself with the execution of the transaction itself.

Claims 1, 14, and 18 have been amended to clarify that the executing of the transaction takes place subsequent to the preceding steps.

With regard to the combination of Movalli and Walker, the Applicant does not dispute the fact that Walker teaches a transaction occurring between a remotely located customer and a vendor. However, in order to obviate the present invention, independent of the discussion above, requires more than simply locating the missing element in another reference.

As indicated in MPEP §2143.01(III), the fact that reference can be combined or modified is not sufficient to establish prima facie obviousness. The prior art must also suggest the desirability of the combination. Movalli discusses in its primary example a POS system, wherein a customer with a credit card makes a transaction and signs the credit card. The capturing of and bundling of signed credit card information from a remote system would not be contemplated by the system disclosed by Movalli. Although it is true that Movalli discloses other forms of transactions in paragraph [0046] (on-line insurance enrollment forms, etc.) in no case are any of these situations described as completing the execution of a transaction, as required by the claims. Therefore, there is no teaching or

suggestion for combining these references in order to provide a teaching of the preparatory stages and execution of a transaction when the customer is remotely located from the vendor.

Applicant relies upon the above arguments for claims 2–13, 15–17, and 5 19–24, all of which depend either directly or indirectly from claims 1, 14, or 18.

3. Movalli fails to teach or suggest the claim 25 & 27 element of identification the location of the user device and determining that the location of the user device conforms to a predetermined location criterion for receipt of a message.

10 In the OA, on p. 8, under numbered paragraph 25, the Examiner indicates that Movalli teaches all elements of claim 25, with the Exception of teaching a transaction between a remotely located customer and a vendor (which is argued as being taught by Walker).

Applicant respectfully traverses. Applicant can see no reference 15 whatsoever related to location information related to a mobile electronic user device and respectfully request that, if this rejection is maintained, the Examiner indicate with specificity which element of Movalli is being read on the mobile electronic user device, as claimed, and how its location is determined according to the teachings of Movalli. Applicant requests that this be more than simply a cite 20 to figures and broad paragraph ranges, but rather comprises an identification of the specific Movalli elements and respective line numbers within paragraphs.

With regard to claim 37, the Examiner argued this essentially the same as claim 35 was argued, and therefore the Applicant relies upon the above arguments with respect to claim 25 as similarly relating to claim 37.

For these reasons, the Applicant asserts that the amended claim language 5 clearly distinguishes over the prior art, and respectfully request that the Examiner withdraw the §103(a) rejection from the present application.

CONCLUSION

Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been 10 satisfied, it is respectfully requested that the present application be reconsidered, the rejections be withdrawn and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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